

Variance Criteria

I. The variance will not be contrary to the public interest.

II. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.

A. Applicant seeking use variance – *Simplex* analysis

1. The zoning restriction as applied interferes with a landowner's reasonable use of the property, considering the unique setting of the property in its environment.

2. No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property.

3. The variance would not injure the public or private rights of others.

B. Applicant seeking area variance – *Boccia* analysis

1. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.

2. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

III. The variance is consistent with the spirit of the ordinance.

IV. Substantial justice is done.

V. The value of surrounding properties will not be diminished.

From: *Boccia v. City of Portsmouth*, 151 N.H. 85 (2004)